

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAMONT RUTLEDGE,

Defendant-Appellant.

UNPUBLISHED

June 12, 2014

No. 316060

Wayne Circuit Court

LC No. 12-007853-FH

Before: WILDER, P.J., and SAAD and K. F. KELLY, JJ.

PER CURIAM.

Defendant Lamont Rutledge was convicted in a bench trial of resisting and obstructing a police officer, MCL 750.81d(1).¹ He was sentenced to 18 months' probation. Defendant now appeals as of right and we affirm his conviction.

On appeal, defendant challenges the sufficiency of the evidence to support the trial court's finding of guilt. This Court reviews de novo a challenge to the sufficiency of the evidence in a bench trial. *In re Contempt of Henry*, 282 Mich App 656, 677; 765 NW2d 44 (2009). When reviewing a challenge to the sufficiency of the evidence in a bench trial, this Court "reviews the evidence in a light most favorable to the prosecutor to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt." *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012), quoting *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). Moreover, "[s]pecial deference is given to a trial court's findings when based on witness credibility." *People v Sherman-Huffman*, 241 Mich App 264, 267; 615 NW2d 776 (2000), aff'd 466 Mich 39 (2002), citing *Draggoo v Draggoo*, 223 Mich App 415, 430; 566 NW2d 642 (1997); see *People v Breeding*, 284 Mich App 471, 487; 772

¹ Defendant was originally charged with three counts: Count 1 charged him with assaulting, resisting, or obstructing Officer Timothy Simons, contrary to MCL 750.81d(1); Count 2 charged him with assaulting, resisting, or obstructing Officer Matthew Fulgenzi, contrary to MCL 750.81d(1); and Count 3 charged him with assault and battery on Anthony Hodby, contrary to MCL 750.81(1). The trial court acquitted defendant of counts 1 and 3, but found him guilty of count 2.

NW2d 810 (2009).² This Court does not resolve credibility issues anew on appeal. *People v Gadowski*, 232 Mich App 24, 28; 592 NW2d 75 (1998); see also *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008) (“This Court will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses.”).

Defendant was convicted of resisting and obstructing a police officer, MCL 750.81d(1). The offense of resisting or obstructing requires proof that the defendant either physically assaulted a police officer (assaulted, battered, or wounded the officer), or proof that the defendant failed to obey an officer’s lawful commands (resisted, obstructed, or opposed the lawful commands of the police officer), and that “the defendant knew or had reason to know . . . the person . . . assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.” *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010), citing MCL 750.81d(1).

Defendant’s conviction arises from an incident at the 36th District Court in the city of Detroit. Anthony Hodby was the complaining witness in a case involving defendant’s nephew. Defendant and other family members attended the court proceedings. Officer Matthew Fulgenzi was also in attendance. Given the presence of so many family members and the emotional situation, Fulgenzi decided it would be best to separate the parties by removing Hodby from the courtroom. Hodby, however, stuck his head back in the courtroom and made a remark, which triggered a reaction. Defendant and a man named Lorne Malone (the father of the defendant in Hodby’s case) attempted to go out into the hallway and confront Hodby. Fulgenzi and another Detroit police officer, Timothy Simons, tried to separate Hodby from defendant and Malone. In the course of trying to keep the parties separate, the officers repeatedly ordered defendant and Malone to stop and to go back into the courtroom. Defendant and Malone refused to obey these orders. There were attempts by Hodby and defendant to either punch the other person, or to defend themselves from being punched. The police managed to push defendant and Malone back into the courtroom, but they rejoined other family members who had also been trying to get into the hallway, and the incident degenerated into a melee.

Fulgenzi specifically testified that he repeatedly gave defendant loud commands to return to the courtroom, and defendant would not comply. Fulgenzi stated that defendant “actively resisted” by refusing to obey his commands, by continuing to struggle with him in an apparent attempt to get to Hodby, and by assuming an “assaultive stance.” Eventually Fulgenzi required the assistance of other court security personnel to get defendant under control. Also, there was ample evidence that both officers were in uniform and readily identifiable as police officers.³ . Considered in a light most favorable to the prosecution, this evidence was sufficient to prove beyond a reasonable doubt that defendant resisted, obstructed, or opposed the lawful commands of a person he knew to be a police officer. MCL 750.81d(1).

² See also, MCR 2.613(C): “Findings of fact by the trial court may not be set aside unless clearly erroneous. In the application of this principle, regard should be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.”

³ Defendant does not challenge this element on appeal.

On appeal, defendant attempts to contrast the testimony of the two police officers with the testimony of the two defense witnesses. He argues that the police officers' testimony was "highly incredulous [sic] and biased," and that the two defense witnesses offered testimony that was "completely candid and reliable." The trial court, however, was in the best position to evaluate the credibility of the witnesses, and the court found the prosecution's witnesses credible, at least with respect to defendant's refusal to obey the orders of Fulgenzi. As noted previously, issues of witness credibility are the province of the trial court as the trier of fact and are not determined anew on appeal. *Gadomski*, 232 Mich App at 28; *Kanaan*, 278 Mich App at 619. Moreover, accepting the testimony of the defense witnesses over that of the prosecutor would require this Court to view the evidence in a light most favorable to *defendant* rather than to the prosecutor. Contra *Reese*, 491 Mich at 139.

Accordingly, this Court concludes that the evidence was sufficient to prove that defendant committed the offense of resisting and obstructing a police officer (Fulgenzi).

Affirmed.

/s/ Kurtis T. Wilder
/s/ Henry William Saad
/s/ Kirsten Frank Kelly